

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 704
98TH GENERAL ASSEMBLY

4101H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 256.437, 256.438, 256.439, 256.440, 256.443, 620.1878, and 644.021, RSMo, and to enact in lieu thereof nine new section relating to public funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 256.437, 256.438, 256.439, 256.440, 256.443, 620.1878, and
2 644.021, RSMo, are repealed and nine new section enacted in lieu thereof, to be known as
3 sections 37.851, 173.478, 256.437, 256.438, 256.440, 256.443, 256.447, 620.1878, and 644.021,
4 to read as follows:

**37.851. 1. The general assembly and every department or division of the executive
2 branch of the state, including the office of any statewide elected official and any executive
3 branch appointee, shall document and make easily available to the public on the Missouri
4 accountability portal established in section 37.850, the following information for all
5 contracts entered into greater than two thousand five hundred dollars for the provision of
6 legal services by a private law firm:**

7 **(1) The dollar amount of each such contract; and**

8 **(2) A brief summary of the legal services to be provided by the firm.**

9 **2. As used in this section, "executive branch appointee" shall include any member
10 of any task force, advisory committee, board, commission, or other body or persons
11 appointed by, named by, or at the direction of an executive branch official.**

12 **3. The office of administration shall promulgate rules to implement the provisions
13 of this section which relate to any executive department or agency. Any rule or portion of**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 a rule, as that term is defined in section 536.010 that is created under the authority
15 delegated in this section shall become effective only if it complies with and is subject to all
16 of the provisions of chapter 536, and, if applicable, section 536.028. This section and
17 chapter 536 are nonseverable and if any of the powers vested with the general assembly
18 pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul
19 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
20 any rule proposed or adopted after August 28, 2016, shall be invalid and void.

173.478. No public institution of higher education that receives public funding shall
2 pay for or reimburse out-of-state travel expenses for spouses of full-time institution
3 employees unless such spouse is also employed by the institution on a full-time basis or is
4 enrolled as a student at the institution and is traveling for educational purposes only.

256.437. As used in sections 256.435 to 256.445, the following terms mean:

- 2 (1) "Director", the director of the department of natural resources;
- 3 (2) "Flood control storage", storage space in reservoirs to hold flood waters;
- 4 (3) "Plan", a preliminary engineering report describing the water resource project;
- 5 (4) "Public water supply", a water supply for agricultural, municipal, industrial or
6 domestic use;
- 7 (5) "Sponsor", any political subdivision of the state or any public wholesale water supply
8 district;
- 9 (6) "Water resource project", a project containing **planning, design, construction, or**
10 **renovation of:**
 - 11 (a) Public water supply [storage and treatment and water source erosion]; [and]
 - 12 (b) Flood control storage[.]; **or**
 - 13 **(c) Treatment or transmission facilities for public water supply.**

256.438. 1. There is hereby established in the state treasury a fund to be known as the
2 "Multipurpose Water Resource Program [Renewable Water Program] Fund", which shall consist
3 of all money deposited in such fund from whatever source, whether public or private.
4 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the
5 fund at the end of the biennium shall not revert to the credit of the general revenue fund. The
6 state treasurer shall invest moneys in the fund in the same manner as other funds are invested.
7 Any interest and other moneys earned on such investments shall be credited to the fund. Any
8 unexpended balance in such fund at the end of any appropriation period shall not be transferred
9 to the general revenue fund and, accordingly, shall be exempt from the provisions of section
10 33.080 relating to the transfer of funds to the general revenue funds of the state by the state
11 treasurer.

12 2. The department of natural resources is hereby granted authority to establish
13 rules by which project sponsors can remit contributions to the fund created under this
14 section. Such contributions shall only be collected from water resource project sponsors
15 who are awarded financial assistance from the fund for water resource projects, as
16 described in sections 256.435 to 256.445. The contributions shall be used for the cost of
17 administering the fund and the provision of financial assistance from the fund as described
18 in sections 256.435 to 256.445.

19 3. Upon appropriation, the department of natural resources shall use money in the fund
20 created by this section for the purposes of carrying out the provisions of sections 256.435 to
21 256.445, including, but not limited to, the provision of grants or other financial assistance, and,
22 if such limitations or conditions are imposed, only upon such other limitations or conditions
23 specified in the instrument that appropriates, grants, bequeaths, or otherwise authorizes the
24 transmission of money to the fund.

25 4. The department of natural resources shall have the authority to promulgate
26 rules to implement this section. Any rule or portion of a rule, as that term is defined in
27 section 536.010 that is created under the authority delegated in this section shall become
28 effective only if it complies with all of the provisions of chapter 536 and, if applicable,
29 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
30 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
31 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
32 grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,
33 shall be invalid and void.

256.440. In order to ensure adequate, long-term, reliable public water supply [storage],
2 treatment, and transmission facilities, there is hereby established a "Multipurpose Water
3 Resource Program". The program shall be administered by the department of natural resources.
4 The state may participate with a sponsor in the development, construction or renovation of a
5 water resource project if the sponsor has a plan which has been submitted to and approved by
6 the director. Prior to approval, such plan shall include a schedule, proposed by the sponsor,
7 to remit contributions back to the fund created under section 256.438. Any money received
8 by the department of natural resources as a result of its participation with any such
9 sponsor shall be deposited in the multipurpose water resource program fund created under
10 section 256.438.

256.443. 1. The plan shall include a description of the project, the need for the project,
2 land use and treatment measures to be implemented to protect the project from erosion, siltation
3 and pollution, procedures for water allocation, criteria to be implemented in the event of drought

4 or emergency, and such other information as the director may require to adequately protect the
5 water resource.

6 2. The director shall only approve a plan upon a determination that long-term reliable
7 public water supply [storage] , **treatment, or transmission facility** is needed in that area of the
8 state, **and that such plan will provide a long-term solution to water supply needs.**
9 Implementation of approved plans will be eligible for cost-sharing expenses as approved by the
10 state soil and water districts commission incurred for required land treatment practices to
11 implement soil conservation plans.

12 3. [Water] **Approved water resource plans and projects** shall be eligible to receive any
13 gifts, contributions, grants or bequests from federal, state, private or other sources for
14 engineering, construction or renovation costs associated with such projects, except that no
15 proceeds from the sales and use tax levied pursuant to Sections 47(a) to 47(c) of Article IV of
16 the State Constitution shall be used for such purposes.

17 4. **Approved water resource projects may be granted funds from, and remit**
18 **contributions to, the multipurpose water resource program fund under section 256.438.**

256.447. The department of natural resources may adopt rules and regulations
2 **necessary to implement the provisions of sections 256.437 to 256.445. Any rule or portion**
3 **of a rule, as that term is defined in section 536.010 that is created under the authority**
4 **delegated in this section shall become effective only if it complies with and is subject to all**
5 **of the provisions of chapter 536 and, if applicable, section 536.028. This section and**
6 **chapter 536 are nonseverable, and if any of the powers vested with the general assembly**
7 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
8 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**
9 **any rule proposed or adopted after August 28, 2016, shall be invalid and void.**

620.1878. For the purposes of sections 620.1875 to 620.1890, the following terms shall
2 mean:

3 (1) "Appropriate measure", for the purposes of calculating the benefits for a given
4 year, the amount of the project facility base payroll and related facility base payroll shall
5 be adjusted by multiplying the original project facility base payroll and related facility
6 base payroll by the statewide average wage increase factor. The statewide average wage
7 increase factor shall be calculated by dividing the statewide average wage for that year by
8 the statewide average wage in effect as of the end of the project facility base payroll period
9 and the related facility base payroll period. This definition shall be applicable to projects
10 for which the notice of intent was filed after September 4, 2007, and shall apply only to
11 benefits calculated for tax years 2014 and later. This definition shall not result in the
12 reduction of 2014 benefits below the level that was certified by the department on or before

13 **December 31, 2015, or an increase in 2014 benefits above the amount that was requested**
14 **by a qualified company on an annual report filed with the department on or before**
15 **December 31, 2015;**

16 (2) "Approval", a document submitted by the department to the qualified company that
17 states the benefits that may be provided by this program;

18 [(2)] (3) "Average wage", the new payroll divided by the number of new jobs;

19 [(3)] (4) "Commencement of operations", the starting date for the qualified company's
20 first new employee, which must be no later than twelve months from the date of the approval;

21 [(4)] (5) "County average wage", the average wages in each county as determined by the
22 department for the most recently completed full calendar year. However, if the computed county
23 average wage is above the statewide average wage, the statewide average wage shall be deemed
24 the county average wage for such county for the purpose of determining eligibility. The
25 department shall publish the county average wage for each county at least annually.
26 Notwithstanding the provisions of this subdivision to the contrary, for any qualified company
27 that in conjunction with their project is relocating employees from a Missouri county with a
28 higher county average wage, the company shall obtain the endorsement of the governing body
29 of the community from which jobs are being relocated or the county average wage for their
30 project shall be the county average wage for the county from which the employees are being
31 relocated;

32 [(5)] (6) "Department", the Missouri department of economic development;

33 [(6)] (7) "Director", the director of the department of economic development;

34 [(7)] (8) "Employee", a person employed by a qualified company;

35 [(8)] (9) "Full-time employee", an employee of the qualified company that is scheduled
36 to work an average of at least thirty-five hours per week for a twelve-month period, and one for
37 which the qualified company offers health insurance and pays at least fifty percent of such
38 insurance premiums;

39 [(9)] (10) "High-impact project", a qualified company that, within two years from
40 commencement of operations, creates one hundred or more new jobs;

41 [(10)] (11) "Local incentives", the present value of the dollar amount of direct benefit
42 received by a qualified company for a project facility from one or more local political
43 subdivisions, but shall not include loans or other funds provided to the qualified company that
44 must be repaid by the qualified company to the political subdivision;

45 [(11)] (12) "NAICS", the 1997 edition of the North American Industry Classification
46 System as prepared by the Executive Office of the President, Office of Management and Budget.
47 Any NAICS sector, subsector, industry group or industry identified in this section shall include
48 its corresponding classification in subsequent federal industry classification systems;

49 [(12)] **(13)** "New direct local revenue", the present value of the dollar amount of direct
50 net new tax revenues of the local political subdivisions likely to be produced by the project over
51 a ten-year period as calculated by the department, excluding local earnings tax, and net new
52 utility revenues, provided the local incentives include a discount or other direct incentives from
53 utilities owned or operated by the political subdivision;

54 [(13)] **(14)** "New investment", the purchase or leasing of new tangible assets to be placed
55 in operation at the project facility, which will be directly related to the new jobs;

56 [(14)] **(15)** "New job", the number of full-time employees located at the project facility
57 that exceeds the project facility base employment less any decrease in the number of full-time
58 employees at related facilities below the related facility base employment. No job that was
59 created prior to the date of the notice of intent shall be deemed a new job. An employee that
60 spends less than fifty percent of the employee's work time at the facility is still considered to be
61 located at a facility if the employee receives his or her directions and control from that facility,
62 is on the facility's payroll, one hundred percent of the employee's income from such employment
63 is Missouri income, and the employee is paid at or above the state average wage;

64 [(15)] **(16)** "New payroll", the amount of taxable wages of full-time employees,
65 excluding owners, located at the project facility that exceeds the project facility base payroll. If
66 full-time employment at related facilities is below the related facility base employment, any
67 decrease in payroll for full-time employees at the related facilities below that related facility base
68 payroll shall also be subtracted to determine new payroll;

69 [(16)] **(17)** "Notice of intent", a form developed by the department, completed by the
70 qualified company and submitted to the department which states the qualified company's intent
71 to hire new jobs and request benefits under this program;

72 [(17)] **(18)** "Percent of local incentives", the amount of local incentives divided by the
73 amount of new direct local revenue;

74 [(18)] **(19)** "Program", the Missouri quality jobs program provided in sections 620.1875
75 to 620.1890;

76 [(19)] **(20)** "Project facility", the building used by a qualified company at which the new
77 jobs and new investment will be located. A project facility may include separate buildings that
78 are located within fifteen miles of each other or within the same county such that their purpose
79 and operations are interrelated;

80 [(20)] **(21)** "Project facility base employment", the greater of the number of full-time
81 employees located at the project facility on the date of the notice of intent or for the twelve-
82 month period prior to the date of the notice of intent, the average number of full-time employees
83 located at the project facility. In the event the project facility has not been in operation for a full

84 twelve-month period, the average number of full-time employees for the number of months the
85 project facility has been in operation prior to the date of the notice of intent;

86 [(21)] **(22)** "Project facility base payroll", the total amount of taxable wages paid by the
87 qualified company to full-time employees of the qualified company located at the project facility
88 in the twelve months prior to the notice of intent, not including the payroll of the owners of the
89 qualified company unless the qualified company is participating in an employee stock ownership
90 plan. For purposes of calculating the benefits under this program, the amount of base payroll
91 shall increase each year based on an appropriate measure[, as determined by the department];

92 [(22)] **(23)** "Project period", the time period that the benefits are provided to a qualified
93 company;

94 [(23)] **(24)** "Qualified company", a firm, partnership, joint venture, association, private
95 or public corporation whether organized for profit or not, or headquarters of such entity
96 registered to do business in Missouri that is the owner or operator of a project facility, offers
97 health insurance to all full-time employees of all facilities located in this state, and pays at least
98 fifty percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890,
99 the term "qualified company" shall not include:

- 100 (a) Gambling establishments (NAICS industry group 7132);
101 (b) Retail trade establishments (NAICS sectors 44 and 45);
102 (c) Food and drinking places (NAICS subsector 722);
103 (d) Public utilities (NAICS 221 including water and sewer services);
104 (e) Any company that is delinquent in the payment of any nonprotested taxes or any
105 other amounts due the state or federal government or any other political subdivision of this state;
106 (f) Any company that has filed for or has publicly announced its intention to file for
107 bankruptcy protection. However, a company that has filed for or has publicly announced its
108 intention to file for bankruptcy between January 1, 2009, and December 31, 2009, may be a
109 qualified company provided that such company:

- 110 a. Certifies to the department that it plans to reorganize and not to liquidate; and
111 b. After its bankruptcy petition has been filed, it produces proof, in a form and at times
112 satisfactory to the department, that it is not delinquent in filing any tax returns or making any
113 payment due to the state of Missouri, including but not limited to all tax payments due after the
114 filing of the bankruptcy petition and under the terms of the plan of reorganization.

115
116 Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy under
117 Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the
118 department and shall forfeit such benefits and shall repay the state an amount equal to any state
119 tax credits already redeemed and any withholding taxes already retained;

- 120 (g) Educational services (NAICS sector 61);
- 121 (h) Religious organizations (NAICS industry group 8131);
- 122 (i) Public administration (NAICS sector 92);
- 123 (j) Ethanol distillation or production; or
- 124 (k) Biodiesel production.

125

126 Notwithstanding any provision of this section to the contrary, the headquarters or administrative
127 offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate
128 territory. In the event a national, state, or regional headquarters operation is not the predominant
129 activity of a project facility, the new jobs and investment of such headquarters operation is
130 considered eligible for benefits under this section if the other requirements are satisfied;

131 [(24)] **(25)** "Qualified renewable energy sources" shall not be construed to include
132 ethanol distillation or production or biodiesel production; however, it shall include:

- 133 (a) Open-looped biomass;
- 134 (b) Close-looped biomass;
- 135 (c) Solar;
- 136 (d) Wind;
- 137 (e) Geothermal; and
- 138 (f) Hydropower;

139 [(25)] **(26)** "Related company" means:

- 140 (a) A corporation, partnership, trust, or association controlled by the qualified company;
- 141 (b) An individual, corporation, partnership, trust, or association in control of the
142 qualified company; or

143 (c) Corporations, partnerships, trusts or associations controlled by an individual,
144 corporation, partnership, trust or association in control of the qualified company. As used in this
145 subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of stock
146 possessing at least fifty percent of the total combined voting power of all classes of stock entitled
147 to vote, "control of a partnership or association" shall mean ownership of at least fifty percent
148 of the capital or profits interest in such partnership or association, "control of a trust" shall mean
149 ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal
150 or income of such trust, and ownership shall be determined as provided in Section 318 of the
151 Internal Revenue Code of 1986, as amended;

152 [(26)] **(27)** "Related facility", a facility operated by the qualified company or a related
153 company located in this state that is directly related to the operations of the project facility;

154 [(27)] **(28)** "Related facility base employment", the greater of the number of full-time
155 employees located at all related facilities on the date of the notice of intent or for the twelve-

156 month period prior to the date of the notice of intent, the average number of full-time employees
157 located at all related facilities of the qualified company or a related company located in this state;

158 [(28)] **(29)** "Related facility base payroll", the total amount of taxable wages paid by the
159 qualified company to full-time employees of the qualified company located at a related facility
160 in the twelve months prior to the filing of the notice of intent, not including the payroll of the
161 owners of the qualified company unless the qualified company is participating in an employee
162 stock ownership plan. For purposes of calculating the benefits under this program, the amount
163 of related facility base payroll shall increase each year based on an appropriate measure[, as
164 determined by the department];

165 [(29)] **(30)** "Rural area", a county in Missouri with a population less than seventy-five
166 thousand or that does not contain an individual city with a population greater than fifty thousand
167 according to the most recent federal decennial census;

168 [(30)] **(31)** "Small and expanding business project", a qualified company that within two
169 years of the date of the approval creates a minimum of twenty new jobs if the project facility is
170 located in a rural area or a minimum of forty new jobs if the project facility is not located in a
171 rural area and creates fewer than one hundred new jobs regardless of the location of the project
172 facility;

173 [(31)] **(32)** "Tax credits", tax credits issued by the department to offset the state income
174 taxes imposed by chapters 143 and 148, or which may be sold or refunded as provided for in this
175 program;

176 [(32)] **(33)** "Technology business project", a qualified company that within two years of
177 the date of the approval creates a minimum of ten new jobs involved in the operations of a
178 company:

179 (a) Which is a technology company, as determined by a regulation promulgated by the
180 department under the provisions of section 620.1884 or classified by NAICS codes;

181 (b) Which owns or leases a facility which produces electricity derived from qualified
182 renewable energy sources, or produces fuel for the generation of electricity from qualified
183 renewable energy sources, but does not include any company that has received the alcohol
184 mixture credit, alcohol credit, or small ethanol producer credit pursuant to 26 U.S.C. Section 40
185 of the tax code in the previous tax year;

186 (c) Which researches, develops, or manufactures power system technology for:
187 aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices; or

188 (d) Which is a clinical molecular diagnostic laboratory focused on detecting and
189 monitoring infections in immunocompromised patient populations;

190 [(33)] (34) "Withholding tax", the state tax imposed by sections 143.191 to 143.265. For
191 purposes of this program, the withholding tax shall be computed using a schedule as determined
192 by the department based on average wages.

644.021. 1. There is hereby created a water contaminant control agency to be known as
2 the "Clean Water Commission of the State of Missouri", whose domicile for the purposes of
3 sections 644.006 to 644.141 shall be deemed to be that of the department of natural resources.
4 The commission shall consist of seven members appointed by the governor with the advice and
5 consent of the senate. No more than four of the members shall belong to the same political party.
6 All members shall be representative of the general interest of the public and shall have an interest
7 in and knowledge of conservation and the effects and control of water contaminants. **At least**
8 two [such] members[, but no more than two,] shall be knowledgeable concerning the needs of
9 agriculture, industry or mining and interested in protecting these needs in a manner consistent
10 with the purposes of sections 644.006 to 644.141. One [such] member shall be knowledgeable
11 concerning the needs of publicly owned wastewater treatment works. **No more than** four
12 members shall represent the public. No member shall receive, or have received during the
13 previous two years, a significant portion of his or her income directly or indirectly from permit
14 holders or applicants for a permit pursuant to any federal water pollution control act as amended
15 and as applicable to this state. All members appointed on or after August 28, 2002, shall have
16 demonstrated an interest and knowledge about water quality. All members appointed on or after
17 August 28, 2002, shall be qualified by interest, education, training or experience to provide,
18 assess and evaluate scientific and technical information concerning water quality, financial
19 requirements and the effects of the promulgation of standards, rules and regulations. At the first
20 meeting of the commission and at yearly intervals thereafter, the members shall select from
21 among themselves a chairman and a vice chairman.

22 2. The members' terms of office shall be four years and until their successors are selected
23 and qualified. Provided, however, that the first three members appointed shall serve a term of
24 two years, the next three members appointed shall serve a term of four years, thereafter all
25 members appointed shall serve a term of four years. There is no limitation on the number of
26 terms any appointed member may serve. If a vacancy occurs the governor may appoint a
27 member for the remaining portion of the unexpired term created by the vacancy. The governor
28 may remove any appointed member for cause. The members of the commission shall be
29 reimbursed for travel and other expenses actually and necessarily incurred in the performance
30 of their duties.

31 3. The commission shall hold at least four regular meetings each year and such additional
32 meetings as the chairman deems desirable at a place and time to be fixed by the chairman.
33 Special meetings may be called by three members of the commission upon delivery of written

34 notice to each member of the commission. Reasonable written notice of all meetings shall be
35 given by the director to all members of the commission. Four members of the commission shall
36 constitute a quorum. All powers and duties conferred specifically upon members of the
37 commission shall be exercised personally by the members and not by alternates or
38 representatives. All actions of the commission shall be taken at meetings open to the public.
39 Any member absent from six consecutive regular commission meetings for any cause whatsoever
40 shall be deemed to have resigned and the vacancy shall be filled immediately in accordance with
41 subsection 1 of this section.

42

2 [256.439. In order to provide public water supply storage treatment and
3 water-related facilities in both urban and rural areas of the state, there is hereby
4 established a "Multipurpose Water Resources Program". The program shall be
5 administered by the state department of natural resources. The state department
6 of natural resources may adopt rules and regulations necessary to implement the
provisions of sections 256.437 to 256.445.]

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